

AN ACT

relating to priority groundwater management areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 35.007, Water Code, is amended to read as follows:

(a) The executive director and the executive administrator shall meet periodically to identify, based on information gathered by the commission and the Texas Water Development Board, those areas of the state that are experiencing or that are expected to experience, within the immediately following 50-year ~~[25-year]~~ period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies. Not later than September 1, 2005, the commission, with assistance and cooperation from the Texas Water Development Board, shall complete the initial designation of priority groundwater management areas across all major and minor aquifers of the state for all areas that meet the criteria for that designation. The studies may be prioritized considering information from the regional planning process, information from the Texas Water Development Board groundwater management areas and from groundwater conservation districts, and any other information available. After the initial designation of priority groundwater management areas, the commission and the Texas Water Development

1 Board shall annually review the need for additional designations as
2 provided by this subsection.

3 SECTION 2. Section 35.008, Water Code, is amended by adding
4 Subsection (j) to read as follows:

5 (j) The commission may adopt rules regarding:

6 (1) the creation of a district over all or part of a
7 priority groundwater management area that was designated as a
8 critical area under Chapter 35, Water Code, as that chapter existed
9 before September 1, 1997, or under other prior law; and

10 (2) the addition of all or part of the land in a
11 priority groundwater management area described by Subdivision (1)
12 to an existing district.

13 SECTION 3. Section 35.012, Water Code, is amended by
14 amending Subsection (b) and adding Subsection (b-1) to read as
15 follows:

16 (b) Except as provided by Section 35.013, within [Within]
17 two years, but no sooner than 120 days, from the date on which the
18 commission issues an order under Section 35.008 designating a
19 priority groundwater management area, for those areas that are not
20 within a district, the commission shall[+]

21 [~~(1)~~] create one or more new districts under Section
22 36.0151[+]

23 [~~(2)~~ recommend that the areas, or a portion of the
24 areas, be added to an existing district under Section 35.013, or

25 [~~(3)~~ take any combination of the actions under
26 Subdivisions (1) and (2)].

27 (b-1) For purposes of this section, the commission may

1 consider territory in two separately designated priority
2 groundwater management areas to be in the same designated priority
3 groundwater management area if:

4 (1) the two areas share a common boundary and one or
5 more common aquifers; and

6 (2) the commission determines that a district composed
7 of territory in the two areas will result in more effective or
8 efficient groundwater management than other options available to
9 the commission.

10 SECTION 4. Section 35.013, Water Code, is amended by
11 amending Subsections (b), (c), (e), (f), (g), and (h) and adding
12 Subsections (b-1) and (g-1) to read as follows:

13 (b) The commission shall submit a copy of the order to the
14 board of the district to which it is recommending the priority
15 groundwater management area be added. Not later than the 120th day
16 after the date of receiving the copy, the [The] board shall vote on
17 the addition of the priority groundwater management area to the
18 district and shall advise the commission of the outcome.

19 (b-1) If the district described by Subsection (b) has not
20 approved an ad valorem tax on the date of the commission's order
21 issued under Section 35.008 and the board of the district votes to
22 accept the addition of the priority groundwater management area to
23 the district, the board shall enter an order adding the territory in
24 the district.

25 (c) If the district described by Subsection (b) has approved
26 an ad valorem tax on the date of the commission's order issued under
27 Section 35.008 and the board votes to accept the addition of the

priority groundwater management area to the district, the board:

(1) shall enter an order adding the territory in the district;

(2) may request the Texas AgriLife ~~[Agricultural]~~ Extension Service, the commission, and the Texas Water Development Board, with the cooperation and assistance of the Department of Agriculture and other state agencies, to administer an educational program to inform the residents of the status of the area's water resources, the addition of territory to the district, and ~~[management] options for financing management of the groundwater resources of the~~ ~~[including possible annexation into a]~~ district;

(3) ~~[(2)]~~ shall call an election to be held not later than the 270th day after the date of the board's vote under Subsection (b) within the priority groundwater management area, or portion of the priority groundwater management area, as delineated by the commission to determine if the added area will assume a proportional share of the debts or taxes of the district ~~[priority groundwater management area will be added to the district]; and~~

(4) ~~[(3)]~~ shall designate election precincts and polling places for the elections in the order calling an election under this subsection.

(e) The ballots for the election shall be printed to provide for voting for or against the proposition: "The ~~[inclusion of~~ _____ (briefly describe priority groundwater management area) in the _____ District. "If the district ~~has outstanding debts or taxes, the proposition shall include the following language: "and]~~ assumption by the _____ (briefly

1 describe the territory added under Subsection (c)(1)) ~~[described~~
2 ~~area]~~ of a proportional share of the debts or taxes of the _____
3 District instead of the assessment of fees in the described area to
4 fund the groundwater management activities of the district."

5 (f) Immediately after the election, the presiding judge of
6 each polling place shall deliver the returns of the election to the
7 board, and the board shall canvass the returns for the election
8 within the priority groundwater management area and declare the
9 results. If a majority of the voters in the priority groundwater
10 management area voting on the proposition vote in favor of the
11 proposition, the board shall declare that the priority groundwater
12 management area assumes a proportional share of the debts or taxes
13 of ~~[is added to]~~ the district. If a majority of the voters in the
14 priority groundwater management area voting on the proposition do
15 not vote in favor of the proposition ~~[against adding the priority~~
16 ~~groundwater management area to the district]~~, the board shall adopt
17 rules to implement Subsection (g-1) ~~[declare that the priority~~
18 ~~groundwater management area is not added to the district]~~. The
19 board shall file a copy of the election results with the commission.

20 (g) The ~~[If the voters approve adding the priority~~
21 ~~groundwater management area to the district, the]~~ board of the
22 district to which the priority groundwater management area is added
23 shall provide reasonable representation on that board compatible
24 with the district's existing scheme of representation. Not later
25 than the 30th day after the date on which the board declares that
26 the priority groundwater management area is added to the district,
27 the board of the existing district shall appoint a person or persons

to represent the area until the next regularly scheduled election or appointment of directors.

(g-1) If the voters do not approve the assumption of a proportional share of the debts or taxes of a district under Subsection (e), the board shall assess production fees in the added territory based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn. A district may use revenue generated for any purpose authorized by Section 36.206 or 36.207. Initial production fees may not exceed production fees as set in Section 36.205(c), but may be increased by the board on a majority vote after the first anniversary of the commission order. Production fees may be raised incrementally by 40 percent and 10 percent every following year until the maximum production fees equal:

(1) \$2 per acre-foot, payable annually, for water used for an agricultural purpose; or

(2) 30 cents per 1,000 gallons, payable annually, for water used for any non-agricultural purpose.

(h) Not later than the first anniversary of the date on which [If] the proposition is defeated, or [if] the board of the existing district votes not to accept the addition of the area to the district, [then] the commission shall, except as provided under Subsection (i):

(1) [7] create under Section 36.0151 one or more districts covering the priority groundwater management area; or

(2) recommend the area be added to another existing district as provided by this section [not later than the first

~~anniversary of the date on which the proposition is defeated or the
board votes not to accept the area].~~

SECTION 5. Section 36.0151, Water Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) If the commission is required to create a district under Section 35.012(b), it shall, without an evidentiary hearing, issue an order creating the district and shall provide in its order that temporary directors be appointed under Section 36.0161 [~~36.016~~] and that an election be called by the temporary directors to authorize the district to assess taxes and to elect permanent directors.

(c) The commission may amend the territory in an order issued under Section 35.008 or this section to adjust for areas that, in the time between when the order was issued under Section 35.008 and the order is issued under this section, have:

(1) been added to an existing district or created as a separate district; or

(2) not been added to an existing district or created as a separate district.

(d) In making a modification under Subsection (c), the commission may recommend:

(1) creation of a new district in the area; or

(2) that the area be added to a different district.

(e) Except as provided by Section 35.013(h), a change in the order under Subsection (c) does not affect a deadline under Section 35.012 or 35.013.

SECTION 6. Subsection (h), Section 36.0171, Water Code, is

amended to read as follows:

(h) If the majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set production ~~[permit]~~ fees in accordance with Section 35.013(g-1) to pay for the district's regulation of groundwater in the district, including fees based on the amount of water to be withdrawn from a well.

SECTION 7. (a) The changes in law made by this Act apply to any territory in a priority groundwater management area that is not included in a groundwater conservation district on the effective date of this Act.

(b) Not later than September 1, 2012, the Texas Commission on Environmental Quality shall create a district or add territory to an existing district for any territory for which the commission has issued an order recommending creation of a district or addition of territory to an existing district under Section 35.008, Water Code, before the effective date of this Act, unless the commission determines that the territory is not suitable under Subsection (i), Section 35.013, Water Code.

SECTION 8. All governmental acts and proceedings, including the adoption of rules, of the Texas Commission on Environmental Quality relating to the creation of a groundwater conservation district over all or part of a priority groundwater management area that was designated as a critical area under Chapter 35, Water Code, as that chapter existed before September 1, 1997, or under other prior law, are validated in all respects as of the dates on which they occurred.

The

S.B. No. 313

1 SECTION 9. Subsection (a), Section 35.007, Water Code, as
2 amended by this Act, applies only to a designation of a priority
3 groundwater management area made by the Texas Commission on
4 Environmental Quality on or after the effective date of this Act. A
5 designation made before the effective date of this Act is governed
6 by the law in effect when the designation was made, and that law is
7 continued in effect for that purpose.

8 SECTION 10. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2011.

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S.B. No. 313

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 313 passed the Senate on March 22, 2011, by the following vote: Yeas 30, Nays 0; May 5, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 17, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0. _____

Patsy Spaw

Secretary of the Senate

I hereby certify that S.B. No. 313 passed the House, with amendments, on April 20, 2011, by the following vote: Yeas 145, Nays 0, one present not voting; May 17, 2011, House granted request of the Senate for appointment of Conference Committee; May 26, 2011, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 0, two present not voting. _____

Robert Haney

Chief Clerk of the House

Approved:

17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 O'CLOCK

JUN 17 2011

Bob McWhorter

Secretary of State